

**TOWN OF SOUTH BETHANY
BOARD OF ADJUSTMENT PUBLIC HEARING MINUTES**

Friday, February 25, 2022, 12:00 p.m.

**This meeting/hearing was also conducted electronically pursuant to
Governor Carney's State of Emergency Declaration effective March 13, 2020.**

PRESENT: Chairman Steve Bunoski; Charlene Sturbitts; Martha Fields; Jimmy Oliver; Barrett Edwards
TOWN STAFF: Joe Hinks, Code Enforcement Officer; and Matt Amerling, Town Clerk
APPLICANT: **Dolan & Delia Sullivan**, 128 Bayshore Drive, Lot 17
ATTENDENCE: Dolan & Delia Sullivan; Sue Callaway, 240 Bayshore Drive; James "Tom" Mitchell, 125 Bayshore Drive
ABSENT: BOA Member Al Rae

Chairman Bunoski called the Meeting to order at 2:09 pm, citing Mr. Al Rae as the only Board member absent. All parties were sworn in who requested testimony during the hearing.

PURSUANT TO 22 DEL.C. SECTION 327 (a) AND ARTICLE XI, SECTION 145-38(A)(1), TWENTY-FIVE (25) FT front yard setback requirements of the Code of South Bethany. The Board of Adjustment will hold a Public Hearing to consider the homeowner's request to rebuild a new front entranceway encroaching into the front yard setback.

Town Clerk Matt Amerling stated the public hearing notice for this meeting was posted on the property (128 Bayshore Drive) on January 20, 2022; the notice was published in the *Coastal Point* newspaper on January 21, 2022; it was posted at Town Hall and on four (4) other locations within Town on January 19, 2022; and was sent via certified mail to the property owner and owners of property within a radius of two-hundred (200) feet of the property on January 19, 2022.

Town Code Enforcement Constable Joseph Hinks stated Mr. Sullivan first had a variance brought to a BOA hearing on September 4, 2020, and subsequently a letter of approval was issued October 12, 2020. Mr. Hinks stated that decision letter had an expiration of one (1) year, making it expire on October 12, 2021, and if work was not started within the year, the decision would be null and void. Mr. Hinks stated when construction had not started, the decision had expired and ultimately, at the December 15, 2021, BOA meeting, there was a subsequent decision to grant a six (6)-month extension to variance (making the new expiration June 15, 2022). Mr. Hinks stated, however, when the contractor submitted a design and dimensions which differed from the original approval the Board granted, Mr. Hinks could not issue a building permit and this case had to be re-heard due to said different design.

Mr. Dolan Sullivan, of 128 Bayshore Drive, stated what he originally requested was to have a variance that would basically allow him to build out to the width of this current structure, which is six (6) feet, three (3) inches. Mr. Sullivan stated the current front deck area is a dilapidated structure, not built to Code, and now there's a concrete pad which basically goes up to the front step area, stopping six (6) feet, three (3) inches from the house. Mr. Sullivan stated he is requesting to now build a newly designed entranceway, but wasn't aware it would be a new variance request as he thought he could change something architecturally, as long as he stayed within the granted variance that was issued by the Board. Mr. Sullivan stated the new request is to build within dimensions of the original structure, which is six (6) feet from the house. Chairman Bunoski asked the exact distance Mr. Sullivan is asking to go into the setback. Mr. Sullivan stated the way the house sits on the lot is distinct as it is somewhat cockeyed, so the northern corner of the front setback is twenty-eight-and-a-half (28.5) feet, so there is an

allowance of three-and-a-half (3.5) feet; and the southern corner of the front setback is twenty-six-point-four (26.4) feet, so there is an allowance of one-point-four (1.4) feet.

Mr. Barrett Edwards, of Hudson, Jones, Jaywork & Fisher, stated on the south side, the variance being requested it would be approximately fifty-eight (58) inches, and on the north side, the variance being requested would be approximately thirty-three (33) inches. Mr. Sullivan stated the distance into the setback is the same as the variance granted in October 2020; but the only difference between that one and this new one is the front porch in the original design went across the entire width of the house, but now, as you can see from this drawing, this one does not go across the entire house. Mr. Edwards stated from what he can tell from the presentation, there will be six (6) feet, three (3) inches from the face of the building, and when that is read in conjunction with the depiction that was given here, the architectural depiction, that is sufficient for him. Board member Charlene Sturbitts stated she remembers this variance and how an exceptional practical difficulty was proven because those front steps “have to go” and she believes that’s still the case. Chairman Bunoski stated using the four-step tier process, there's no question that this application meets the definition of an exceptional practical difficulty because you do need to get into your house.

BOA Secretary Martha Fields motioned to approve the variance for 128 Bayshore Drive as requested to rebuild a new front entranceway encroaching into the front yard setback. Chairman Bunoski seconded the motion. Motion carried 4-0. Chairman Bunoski stated there is going to be a one-year limit. The hearing was adjourned at 2:41 p.m.

- Exhibit A Certified letters to neighbors & Town public hearing notice from the Jan. 21, 2022, *Coastal Point* newspaper
- Exhibit B Variance application package including letter, plat survey and photos